



An
Bord
Pleanála

Inspector's Report

ABP-307550-20

Development	Demolition of commercial building and replacement with building consisting of 3 no. retail units at ground floor and 2 no. 1 bedroom apartments at first floor level and all associated site works.
Location	Rear of No. 17, Nephin Road, (fronting onto Villa Park Avenue), Dublin 7.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2331/20
Applicant(s)	Morgan Crowe
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Morgan Crowe
Observer(s)	None
Date of Site Inspection	15 th September 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The site is located just north of the junction of two residential streets, Nephin Road and Villa Park Avenue, approximately 50m northwest of the junction with Blackhorse Avenue, in a residential suburb northwest of Dublin City Centre. Phoneix Park is located close, approximately 200m south of the site. The site circa. 267sq m in area, is rectangular in shape and would have originally formed the rear garden of no.17 Nephin Road.
- 1.2. On site is a single storey flat roof structure (circa 70sq m) which is attached to the rear of the dwelling house at no. 17 Nephin Road. The structure which was built in the 1950s, houses three separate commercial units, two of which appeared to be in use at the time of site visit and house a barber shop and a hairdressers. The end unit on the western side of the row appears to be vacant. The site has carparking provision for approximately 7 cars to the front and west of the retail units. The public footpath along the southern side of Villa Park Avenue runs to the front of the aforementioned parking area. The site is bound to the south by no. 15 Nephin Road and to the west by no. 1 Villa Park Avenue.
- 1.3. The architectural character of the area is diverse, although residential use is dominant, with the local provision of retail and services provided at the junction with Villa Park Avenue, on the corner at no.19-23 Nephin Road. A creche is located to the rear of no.19 Nephin Road directly opposite the appeal site to the northeast.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - The demolition of an existing single storey commercial building of 70 sq m on a site of 267 sq m to the rear of no. 17 Nephin Road, (fronting onto Villa Park Avenue), Dublin 7; and
 - Its replacement with a two-storey building of 220 sq m, consisting of the following;
 - at ground floor level - 3 no. retail units (25sq m, 24 sq m & 16 sq m); bin stores, apartment storage areas and bicycle parking areas (8 no. in total);

- at first floor level - 2 no. 1 bedroom apartments with 2 no. balconies on the front (north-eastern) elevation; and
- all associated boundary treatments, site works and utility connections.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was refused for the following reason:

1. *The proposed development is located in an area zoned residential Z1 with the objective - to protect, provide and improve residential amenities - under the Dublin City Development Plan 2016 - 2022. Having regard to the orientation of the application site, the close proximity of the proposed two-storey development in close proximity to residential properties at Nos. 15 and 17 Nephin Road, which are positioned south and east of the site respectively, it is considered that the proposed development would seriously injure the residential amenities of properties in the vicinity by reason of overbearing impact and excessive overshadowing and would constitute over-development of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report reflects the decision of the Planning Authority. The following is of note:

- The area planner notes that there is no planning history for the site and that the applicant claims that the units were built pre 1963.
- The two proposed apartments at first floor level achieve the minimum floor areas as required under the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DOHPLG, 2018)*, however the area planner expressed concerns with regard to the potential for overlooking of surrounding residential properties

and also the provision of daylight to both apartments and states that no evidence has been submitted to show that the minimum standards for daylighting can be achieved. The north facing aspects of the living areas and the high level and translucent/opaque glazing proposed also raises concerns.

- The quality of open space for both apartments, in the form of balconies is considered poor given the northern orientation of the balconies provided.
- The area planner raises a number of concerns regarding the possible impact that the development may have on the residential amenities of the adjoining properties, these include:
 - possible overlooking of private amenity space to the rear of no's 13 and 15 Nephin Road,
 - minimal separation distances between the proposal at no's 15 Nephin Road and 1 Villa Park Avenue, and
 - a detrimental impact on the residential amenities of adjoining properties by way of overshadowing and the overbearing impact that the development would create. The area planner also notes the lack of evidence submitted in relation to potential impacts on the provision of daylight/sunlight for adjoining properties.
- The planning authority consider that the depth and size of the site present challenges for redevelopment and considers that the quantum of development proposed is too large for the site and therefore the development presents the consequent issues of overshadowing, overbearing impacts and overlooking of adjoining properties.
- The planning authority therefore recommended refusal based on the impact that the proposal would have on residential amenity in the area.

3.2.2. Other Technical Reports

- Roads Streets & Traffic Division – DCC – Report dated 18th March 2020 which states that taking into account the small scale nature of the proposed development and the existing carparking serving the overall neighbourhood centre, the non-provision of carparking to serve the

development is considered acceptable in this instance. The division therefore had no objection to the proposed development subject to conditions.

- Drainage Division – DCC – Report dated 23rd March 2020 - no objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water – No response

3.4. Third Party Observations

3.4.1. Three observations were received on the application, all from residents of neighbouring properties at no. 13, no.15 and no.17 Nephin Road. Issues raised in relation to the proposed development included:

- Concerns regarding overlooking from high level windows. Permanently opaque glazing and fixed windows, with no openings should be conditioned to ensure privacy for adjoining residents.
- The additional height proposed by the development on the site will cause overshadowing to the garden and house at no. 15 Nephin Road.
- As no parking has been provided as part of the proposed development this will in turn put added pressure on the on-street parking on both Nephin Road and Villa Park Avenue and may lead to the obstruction of footpaths due to displaced carparking.
- The sewage system between no.15 Nephin Road and Villa Park Avenue is already under significant pressure and this will only be exacerbated with the addition of the two proposed apartments.
- Expected increase in noise levels as a result of the development.
- Overall the development would impact on the quality of life of the local residents.

- 3.4.2. The Board should note that the planning authority acknowledge that the observation submitted from the landowner at no.17 Nephin Road was withdrawn. Due to a clerical error this was not acknowledged in the planner's report.

4.0 Planning History

4.1. Onsite:

- P.A. Ref. 3304/11 – 2011 – Permission Refused for single storey extension to side to provide for additional shop/office unit and amendment to existing carparking layout. The reason for refusal referred to the development being injurious to the residential amenities of the adjoining properties and property in the vicinity and also the new parking layout would result in pedestrian vehicular conflict and endanger public safety by reason of traffic hazard.

4.2. Nearby relevant planning history:

- P.A. Ref. 3040/13 – 2013 – Permission Granted for construction of two storey extension to the side and rear of existing childcare facility at 19 & 21 Nephin Road (corner of Villa Park Avenue).
- ABP PL29N.101396 – 1997 - Permission Granted for revised two storey apartment block B comprising 6 apartments and revised car parking layout on enlarged site at 7-9 Nephin Road.

Condition 4 which was attached stated: *The north-western façade of Block B shall be redesigned in such a way that no kitchen, bedroom or living/dining room windows at first floor level shall directly overlook adjoining property....*

5.0 Policy Context

5.1. National Policy Guidance

- Project Ireland 2040 National Planning Framework (NPF) (2018).
- *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities*. Department of Housing, Planning and Local

Government, 2018. In particular the following standards and Specific Planning Policy Requirements (SPPR) are relevant:

- SPPR 3 – Minimum Apartment Floor Areas
 - Sections 3.20 – 3.25 - Floor to Ceiling Height
 - Sections 3.30 – 3.34 - Internal Storage
 - Sections 3.35 – 3.39 – Private Amenity Space
 - Appendix 1 – Required Minimum Floor Areas and Standards
- Sustainable Residential Development in Urban Areas (2009)
 - Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.2. **Quantitative methods for daylight assessment** are detailed in the following documents:

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;
- BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting'.

5.3. **Development Plan**

5.3.1. **Zoning**

The operative Development Plan is the Dublin City Development Plan 2016-2022. The appeal site has a zoning objective '*Z1 - Sustainable Residential Neighbourhoods*' within the Dublin City Development Plan 2016-2022, with a stated objective '*to protect, provide and improve residential amenities*'.

5.3.2. **Policy and Sections**

The following policies and sections apply:

- **Policy MT14** - To minimise loss of on-street car parking, whilst recognizing that some loss of spaces is required for, or in relation to, sustainable transport provision, access to new developments, or public realm improvements.
- **Policy SC13:** To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city,

which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.

- **Policy QH1:** To have regard to the national guidelines relating to residential development...
- **Policy QH8** - To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- **Policy QH11** - To ensure new developments and refurbishments are designed to promote safety and security and avoid anti-social behaviour in accordance with the Safety and Security Design Guidelines contained in Appendix 14.
- **Section 5.5.2 Sustainable Residential Area**
- **Section 7.6.4 Retailing in the Wider City**
Dublin City Council will encourage appropriate retail provision throughout the city in accordance with the settlement and retail hierarchy as set out in the core strategy and retail strategy.
- **Section 16.2.1 - Design Principles**
This section provides guidance on design standards, in particular it states that development should respond creatively to and respect and enhance its context, and have regard to:
 - The character of adjacent buildings, the spaces around and between them and the character and appearance of the local area;
 - Existing materials, detailing, building lines, scale, orientation, height and massing, plot width.
- **Section 16.38 Car Parking Standards** - Parking: Area 3 applies to the appeal site.
- **Section 16.5 Plot Ratio**
- **Section 16.6 Site Coverage**
- **Section 16.10.1 Residential Quality Standards – Apartments**

5.4. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has appealed the decision of Dublin City Council to refuse permission for the proposed development. The grounds of appeal are summarised as follows:

- The proposed development will see additional separation space between the proposed retail units and the existing residential properties on Nephin Road.
- There is to be no increase in retail floor area.
- The rear façade has been designed to ensure there is no overlooking, and the additional windows on this façade are to be either high level (1.6m above FFL) or comprised of polycarbonate obscured glazing (for common areas and bathrooms). There is no overlooking from habitable rooms and none of the rear windows are openable.
- A 'sunlight and daylight access analysis' report has been submitted with the appeal documentation. This report confirms that there is no excessive loss of sunlight or overshadowing on the adjoining properties.
- The apartments are dual aspect and comply with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities. Appropriate open space has also been provided and all windows far exceed the minimum requirements for habitable rooms.
- The building will replace an unattractive single storey development and be more in keeping with the surrounding built environment. In addition, the redevelopment of the site will address the anti-social behaviour on site, in particular it will remove access to current flat roof and also remove available room for littering and illegal dumping on site.
- The applicant has submitted a solicitors letter stating that the structures currently on site were constructed prior to 1st October 1964 and states that

records are available in the valuations office going back to the 1950s which show commercial use at the time and that rates were payable on the property.

- The applicant makes reference to supporting policy for the type of development proposed under both the Dublin City Development Plan 2016-2022 and national policy under the National Planning Framework (NPF).
- The applicant also makes reference to permitted developments within the vicinity to the rear of properties which face onto Nephin Road. In particular, to the north of the site, across Villa Park Avenue where an extension to a childcare facility was granted under P.A. Ref. 3040/13, to the rear of properties no.19 and 21 Nephin Road. In addition, the apartment complex granted under ABP PL29N.101396 are located adjacent to the rear garden of no.11 Nephin Road, the applicant claims that these apartments have much more of a significant impact on the residents of adjoining properties along Nephin Road than that of the proposed development.
- The applicant makes reference to the observation lodged on the original application by the resident of no.17 Nephin Road which was subsequently withdrawn and that the owner of no. 17 has now expressed support for the proposal.

6.2. Planning Authority Response

A response from the planning authority was received on 6th August 2020 which stated the following:

- The comprehensive planning report deals fully with the relevant issues raised and justifies its decision.
- The planning authority note that the third part observation received from the landowner of no.17 Nephin Road had been withdrawn prior to the determination of the application, however due to a clerical error this was not acknowledged in the planner's report. Notwithstanding the withdrawal of the observation the decision of the planning authority still stands.

6.3. Observations

The Board should note that an invalid observation/submission was received by ABP from Mr. Martin Burke, resident of no.17 Nevin Road on 07th July 2020. The appeal lodgement date was 10th July 2020 and therefore this observation which was received prior to this could not be considered. However, the applicant has submitted a copy of the same letter as part of the appeal documentation and therefore the details of this letter have been assessed. In summary Mr. Burke outlines his support for the development in the submitted letter.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Impact on Residential Amenities
- Development Standards
- Traffic
- Flooding
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The site is zoned *Z1 Sustainable Residential Neighbourhood* with an objective '*to protect, provide and improve residential amenities*'.

7.2.2. Residential and shop (local) uses are permissible within this zoning category. The uses on site which include a hairdresser, barber shop and beauticians are well established on the site and as such the proposal is acceptable in principle, subject to the detailed considerations below. The proposed retail element of the development would constitute a Level 5 retail centre as defined under Appendix 3 of the Development Plan.

7.3. Impact on Residential Amenities

7.3.1. The applicant proposes to demolish the existing single storey flat roofed commercial buildings (circa. 70sqm) on site and redevelop the site to include a two-storey structure with three separate units on the ground floor (with both front and rear access) and two new one-bedroom apartments at first floor level. The planning authority refused the original application on site due to the proximity of the new development to the residential properties at no.15 and no.17 Nephin Road. The area planner stated that the development would have an overbearing impact and excessive overshadowing on these properties and that the development would constitute over development of the site. In order to assess the potential impact on the residential amenities of surrounding properties each element is considered separately below:

7.3.2. Building separation distance

The area planner raises concerns regarding the proposed separation distances between the development and the surrounding residential boundaries. Section 16.10.3 Residential Quality Standards, Apartments and Houses of the Development Plan makes reference to separation distances and acoustic privacy and states that sites should be utilised and building layout, to maximise acoustic privacy by providing good building separation from neighbouring buildings and noise sources. Apartment no.1 would be setback from the southern/rear boundary with the site at no.15 Nevin Road by between 1.33m and 1.67m. The western elevation of apartment no.1 would be approx. 1.2m from the western boundary wall adjacent to no. 1 Villa Park Avenue. While it is acknowledged that these distances to site boundaries are limited, it is worth noting that the distances between the site boundaries and any adjacent residential dwelling is then further and that part of the proposed new structure has a stepped design.

No. 1 Villa Park Avenue

When examining the adjoining residential property at no.1 Villa Park Avenue the distance between the rear of apartment no. 1 and the eastern elevation wall of the adjoining property is 3.5m. The rear of apartment no.1 has a parapet height of 5.6m which is not considered excessive. The front of the proposed building which is

stepped in nature has a separation distance of 5.5m from the nearest side elevation of no. 1 Villa Park Avenue.

No. 17 Nephin Road

The separation distance between the eastern elevation of the proposed new structure and the property at no. 17 Nephin Road is 2.86m, with the site in this area sloping slightly down to the east. Again, it should be noted that this section of the building which houses apartment no.2 at first floor level has a flat roof element with a lower parapet height at 6.1m, this is 2.4m lower than the roof ridge height of the main bulk of the building. The design of the building in this area provides for a step back on the front elevation to provide for a balcony facing onto Villa Park Avenue. This design element further breaks the front façade and lessens the impact of the overall structure on the adjoining residential property at no.17. In addition, it should be noted that the existing retail units on site adjoin the rear of no.17, therefore the proposed development provides for new separation distance between the two structures and the provision of a rear garden of 31sq m which has been allocated to the adjoining property on the site layout, with separate access for the residents of no.17.

No. 15 Nephin Road

No.15 Nephin Road is located to the rear of the appeal site with the closest element of the proposed develop (apartment no.1 and ground floor storage area) located a minimum of 1.3m from the site boundary. While acknowledging that the separation distance is limited, it is worth noting that this part of the development faces onto the rear garden of no.15 and therefore separation distance is not such an issue. The issues of overshadowing and overlooking are dealt with further in the sections that follow.

I note that the National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance-based standards to ensure well-designed high-quality outcomes. In particular, the NPF states that general blanket restrictions on building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location. In light of all the above, it is considered that those separation distances outlined in the current proposal are acceptable and

will not result in any detrimental impact on the residential amenities of adjoining properties.

7.3.3. Overlooking

Due to the proximity of the proposed development to adjacent residential properties the area planner in his report expressed concerns in relation to overlooking. Five windows are proposed on the rear (southern) elevation at first floor level. No openings are proposed at first floor level on any of the side elevations, apart from one which is on the south-eastern elevation, providing light to the stairwell. The applicant has confirmed in the appeal documents submitted that all windows on the rear and side elevations apart from the two higher level will have polycarbonate obscured glazing. The two proposed higher-level windows are at a height of 1.6m above FFL and provide light to the rear of the double bedroom in apartment no.1 and the living room area in apartment no.2. The applicant has stated in his appeal submission that none of these windows to the rear or side are openable, however this has not been stated on the submitted drawings and it would appear that the 'proposed rear elevation, south west (Drawing no. 2-2-03)' shows divisions in the higher level windows which may be capable of opening and these do not correspond with the windows shown in the 'proposed first floor plan (Drawing no. 1-2-01)'. Therefore, should the Board be minded to grant permission, I would recommend a condition be attached to ensure all rear and side stairwell windows are fixed and not openable. I am satisfied that with the implementation of the measures outlined that there would be no negative impact on the residential amenities of adjoining properties by reason of overlooking.

7.3.4. Overshadowing

I note that the initial application to the planning authority did not include a daylight/sunlight analysis for the proposed development. The area planner raised this as a concern in his report, given the two-storey nature of the proposal and its proximity to the southern and western boundaries of the site. Part of the refusal reason referred to the potential for overshadowing and the impact that this may have on the residential amenities of adjoining properties. The applicant in response has submitted a daylight/sunlight analysis for the proposed development. This report follows the guidance outlined in the *BRE209 - Site Layout Planning for Daylight and*

Sunlight: A Guide to Good Practice and BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting. The report contains a detailed analysis using indicative diagrams and 3D modelling to assess any impacts that the proposed development may have on adjoining residential properties and their availability of daylight and sunlight. With regard to sunlight access, the report outlines that the proposed development is not predicted to result in any undue adverse impacts on sunlight access to neighbouring lands or buildings. All windows with a reasonable expectation of sunlight and rear gardens will continue to receive sunlight levels in excess of the level recommended by the BRE Guide.

No.17 Nephin Road

An in-depth analysis of the windows to the rear of the property at no.17 Nephin Road is provided in the report. All the windows to the rear of no. 17 face with 90° of due north. The BRE Guide does not recommend any standards or thresholds for windows at this angle. While shadow cast by the proposed development will result in a reduction in sunlight access in the case of the rear facing, ground floor window of the flat roofed extension on the northern side of no.17 and the window at first floor level, the demolition of the existing single storey commercial building will result in a 'moderate' to 'significant' increase in sunlight access to the largest rear facing ground floor window.

No.1 Villa Park Avenue

The results of the analysis of sunlight access to the windows on the eastern elevation of no.1 Villa Park Avenue show that there would be a potential reduction in sunlight to the front south-eastern corner window, however this reduction would not fall within the adverse ranges outlined in the BRE Guide for the assessment of windows facing within 90 degrees of due south and the room would continue to receive the recommended 25% Annual Probable Sunlight Hours (APSH) including the 5% APSH during the winter months, if the development were to be constructed.

Private Amenity Space to rear of no. 15 Nephin Road

The BRE Guide advises that an outdoor space will appear adequately sunlit through the year, in instances where at least half of its area is capable of receiving two hours of direct sunlight on the 21st of March. Regarding the impact of the development on the rear garden of no.15 Nephin Road, the report contains the results of a detailed

analysis of shadow cast by the proposed development on gardens/amenity space outside the application site. The results of this analysis show that the proposed development is likely to result in a minor increase in sunlight access to this rear garden during the morning of 21st March, with no reduction in sunlight predicted. The analysis also shows no decrease in the availability of sunlight to the rear garden of No.1 Villa Park Avenue, using the same standards.

7.3.5. Overdevelopment of the site

The area planner in his report makes reference to the policy underpinning the assessment of whether or not a development on a site would constitute over development yet does not examine this in detail in his analysis. I note the development on the opposite side of Villa Park Avenue, which was permitted under P.A. Ref. 3040/13. This development is comprised of a two-storey extension to the side and rear of existing childcare facility at 19 & 21 Nephin Road (corner of Villa Park Avenue) and the proposed development will be of similar mass and height (7.7m) to it. The creche development has a higher site coverage and plot ratio than the current development and yet fits into the existing streetscape resulting in no negative impacts.

In order to assess if the development will result in overdevelopment of this limited site (267sq m) those standards outlined in Section 16.5 Plot Ratio and Section 16.6 Site Coverage, of the City Development Plan have been examined.

Firstly, the site and the proposed development is calculated to have an indicative plot ratio of 0.82 which is within the standards outlined within Section 16.5. The site coverage has been calculated at 43% which is slightly lower than the standards as set out under Section 16.6, this is considered acceptable on this site. Therefore, it can be determined, that in accordance with the standards set in the Development Plan, the proposal would not result in the overdevelopment of the site and therefore that reason for refusal is in my opinion not merited.

7.4. **Development Standards – Apartments**

- 7.4.1. As part of the development, two new apartments are proposed at first floor level with access to be attained via stairs/lift. The entrance to the residential element would be from the rear of the proposed building. I have assessed the proposed development against the guidelines Sustainable Urban Housing: Design Standards for New

Apartments (2018) in order to ascertain if all the requirements have been met. Proposed apartment no.1 has a stated floor area of 47sqm and meets all the required minimum floor areas and standards listed under Appendix 1 of the guidelines. The required 5sq m private open space is to be provided as balcony space to the front of the apartment (north-eastern elevation) overlooking Villa Park Avenue with access from the living room area. An opening is to be provided on the front slope of the hipped roof to allow sunlight to penetrate into this area. Apartment no. 2 is slightly smaller in area at 45sq m but also meets all the required standards as set out in the guidelines. A balcony of 5sq m is also provided onto this apartment on the front eastern most corner of the building. This section of the building is comprised of a flat roof design and the balcony is to be open to the elements. A stated area of 34sq m of private open space is also provided to the rear of the building, this area is laid out in the form of a garden with access from the ground floor stairwell. Access is also provided to this area from the rear of shop units 1 and 2 and bicycle parking for 4 bikes is also provided. Separate storage and an additional 4 bicycle parking spaces is provided for the residents of the apartments in a secure separate room on the ground floor to the rear of the development. A bin storage area of 9sq m for both the apartments and the retail units is also provided to the rear of the development.

- 7.4.2. I note the area planner's concerns regarding the northern orientation of the proposed apartments and the availability of sunlight to the habitable rooms. I note that a mixture of high-level windows and larger windows with a vertical emphasis are to be provided to the rear of the apartments. The larger windows will have a polycarbonate panel glazing fixed in the frame to ensure that no overlooking of the rear of the adjoining properties is possible. The proposed apartments have been assessed as part of the 'daylight and sunlight access analysis' and the report concludes that all living rooms within the development are likely to achieve average daylight factors in excess of the minimum levels recommended by the BRE Guide. I am therefore satisfied that the development provides a satisfactory standard of living for future occupants.

7.5. **Traffic**

- 7.5.1. The existing development on site has provision for approximately 7 car spaces. The redevelopment of the site would see the loss of these car spaces and the reliance

instead on both on-street carparking in the vicinity and also the use of the existing carparking to the front of the nearby neighbourhood centre on the north-western corner of Villa Park Avenue and Nephin Road.

7.5.2. The appeal site is located within Parking Zone 3 as defined in the Dublin City Development Plan 2016-2022, where maximum car parking standards of 1 space per residential unit and 1 car space per 75sqm of retail are applicable (the current development has a combined retail floor area of 65sqm). Therefore, the proposed development would require a maximum of 3 car spaces. I note the report from the Transportation Planning Division of DCC which states that the non-provision of carparking to serve the development is acceptable, this takes account of the small-scale nature of the development and also the availability of carparking serving the overall neighbourhood centre close by across Villa Park Avenue. The area planner also agreed with the non-provision of carparking for the development.

7.5.3. Having regard to the nature of the development, the parking standards listed in the Development Plan which are outlined as 'maximum' standards for this Zone 3 area, the provision of ample bicycle parking, the location of the development close to established public transport links and available on street and neighbourhood centre car parking, I see no need to seek the provision of carparking on site and would agree with the opinion of the planning authority in this instance.

7.6. **Flooding**

7.6.1. I note from details submitted with the initial application (DCC Type 1 Pluvial Flood Depth Maps) that the area in which the appeal site is located is susceptible to pluvial flooding. An Engineering Planning Report was submitted with the application which details the flood risk assessment for the site and proposed surface water management measures to be implemented. The risk of pluvial flooding is classified as medium on site, while the risks of coastal and fluvial flooding are classified as very low.

7.6.2. It is recommended that the following mitigation measures be incorporated into the design of the proposed development:

- No habitable accommodation at ground floor level;

- The ground floor should be constructed with flood resilient materials with all electrical and other services raised above the minimum 600mm above floor level;
- The finished floor level shall be 200mm higher than the levels noted on the architect's drawings. Therefore, the FFL shall change from 99.72m to 99.92m (arbitrary datum).

7.6.3. If the Board are minded to grant permission, I would recommend attaching a condition to ensure the above measures are incorporated into the design. I note through implementing the FFL at 99.92(ad) the floor to ceiling height of the commercial units would need to be reduced to 2.6m in height, given the dual aspect design of the commercial units on the ground floor this is not seen as a major issue. Adequate natural daylight can still be achieved and as the floor area of the units are small in size this is considered acceptable. Regarding on site drainage control I note permeable paving and green sedum roofs are proposed as SuDS measures, this is also considered acceptable.

7.7. **Appropriate Assessment**

7.7.1. Having regard to the limited nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

9.0 **Reasons and Considerations**

9.1. Having regard to the nature and extent of the proposed development and the existing pattern of development in the area, it is considered subject to compliance with the conditions set out below that the development will not seriously injure the residential amenities of the area. It is considered that the Planning Authorities

concerns regarding overlooking and overshadowing have been addressed and that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 10th day of July 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The windows on the rear (southern) and side (south-eastern) elevations shall be fixed and unopenable. Those windows identified on the rear and side elevations as polycarbonate in nature shall be fixed with obscure glazing.

Reason: To prevent overlooking of adjoining residential property

3. Prior to commencement of development, the developer shall submit revised drawings to the planning authority for agreement showing amended finished floor levels of 99.92m arbitrary datum on the ground floor.

Reason: In the interest of flood protection, public health and safety.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of

housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including access arrangements for construction traffic, hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Máire Daly
Planning Inspector

8th October 2020